

**Statement of Meg Hunt  
Director, Government Affairs  
Edison Electric Institute  
Washington, DC**

**EPAct Section 1813 Tribal Rights-Of-Way Fees Study Scoping Meeting  
Denver, Colorado  
March 7, 2006**

- EEI appreciates the opportunity to make a presentation on behalf of its member companies during this scoping session the Section 1813 Tribal ROW Fees Study required by the EPAct 2005.
- It is an important study and we hope that the process used to prepare the study and the resulting report can provide the foundation for a dialogue between the tribes and our members towards a mutually acceptable framework that fairly compensates the tribes for the use of their land while providing needed certainty to our members.
- EEI is the trade association of United States shareholder-owned electric utility companies. Our U.S. members serve 71 percent of all electric utility customers in the Nation and generate almost 60 percent of the electricity produced by U.S. generators. In providing these services, EEI members have received or are seeking right-of-way grants for transmission and distribution facilities across tribal lands. In addition, many existing grants will require renewal over the next decade and beyond.
- In recent years, our members have become increasingly concerned about the uncertainties associated with the current process for determining compensation for ROW grants or renewals. The lack of predictability coupled with significant fee increases and other requirements related to the rights-of-way are proving problematic. While primarily a Western issue, EEI's members in the Upper Midwest, Northeast, and Southeast also have expressed interest in the issue.

- EEI believes that all stakeholders in the Section 1813 Study, including tribes, energy companies, customers, and government agencies, have a strong interest in the delivery of energy at fair and affordable rates. Resolution of the issues surrounding energy rights-of-way on tribal lands is in the public interest.
- EEI and its members recognize and respect the sovereignty of the Native American Nations with regard to tribal lands. We understand that sovereignty and consultation are bedrock issues for the tribes.
- At the same time, electric utilities are looking for reasonable fees and conditions for rights-of-way, based on objective assessments of comparable nearby land value and the nature of the use and location of the rights-of-way.
- Utilities also seek stability and certainty that the right-of-way fees and conditions will not change dramatically over time and that the companies can continue to rely on the rights-of-way to serve their customers, including in many cases the tribes and their members. These are bedrock issues for EEI and its members, and these issues are important both in the context of new rights-of-way across tribal lands and renewals of existing rights-of-way.
- Investor confidence in the electric utility industry is needed to preserve and to make necessary expansions to the national electric grid. Reasonable, objective right-of-way fees and conditions, and certainty that the rights-of-way will remain available under such fees and conditions, are crucial for electric utilities to have access to investment capital for infrastructure enhancements. In other words, investors need to have certainty in the tribal rights-of-way fee process before providing capital funds for transmission lines that may involve tribal lands.
- EEI hopes that this study can serve as a vehicle for beginning a dialogue between the tribes, our companies, and the Department of Interior that might lead to a framework through which tribal objectives of fair compensation and our members' need for predictability and an objective measure to which compensation can be pegged to provide that predictability can be met.

- The location and abundance of tribal lands assure that the tribes can and will play a significant role in determining whether the nation's electricity infrastructure can meet current and future needs for reliability and growth. Whether or not a particular transmission line benefits a particular tribe, we believe that a healthy transmission infrastructure is important to the development of tribal resources, facilitating their integration into the economic life of this country – including the development of its own energy resources.
- EEI believes that it should be in the long term interests of our members, the tribes, and the federal government to work towards a resolution of concerns rather than allowing tensions to escalate, resulting in polarization.
- EEI supports the meeting objectives as delineated in the agenda for today and tomorrow. EEI is pleased that the four work sessions will be held in sequence rather than concurrently. Each of the organizations attending the workshop needs to participate in each of the work sessions, and holding the sessions one after the other rather than at the same time will help make this possible. EEI also supports and will respect the discussion guidelines spelled out in the agenda.
- EEI desires the Section 1813 study to result in a positive outcome for all parties. Towards that end, EEI commits to work constructively with the tribes, the Department of Energy and the Department of the Interior
- All Section 1813 stakeholders need to view one another as partners rather than adversaries in this process. The success of the Section 1813 study will only happen if the Department of Energy and Bureau of Indian Affairs are able gather sufficient and credible information. While this does not appear to be complicated at the surface, EEI realizes that there are data collection issues of confidentiality and proprietary information associated with specific rights-of-way for both electric utilities and tribes. To that end, EEI and its member companies are committed to participate throughout the study process and encourage DOE and BIA to take steps to address the confidentiality concerns while preparing a useful study.

- To assist in this, EEI proposes to collect data on behalf of our members and to submit the information to DOE and BIA in a way that ensures confidentiality and protection of proprietary information. EEI is drafting a survey of case study data elements for our members. We have not finalized the survey yet, but we are close. EEI would distribute the survey to member companies and request the information be returned to EEI. EEI would compile the information and submit it to DOE and BIA in manner to protect the identity of the respondents. Confidentiality agreements and proprietary information would be protected under EEI's proposal. We feel this is the only way meaningful data can be collected for the study and maintain protections for the respondents and their data.
- After the workshop, EEI requests that all stakeholders be kept fully briefed during the course of the study. We understand DOE and BIA intend to provide a forum for all stakeholders to make written and oral comments on the draft report. This addresses a concern EEI had with the December 29, 2005 Federal Register notice. We were concerned that the notice could have been interpreted to exclude EEI from providing comments on the draft Section 1813 study report.
- In conclusion, EEI commends DOE and BIA for developing a work plan intended to achieve a final report that gives a fair, accurate and unbiased treatment of the issues within the scope mandated by Congress. We recognize the statutory deadline is tight, but strongly urge DOE and BIA to meet it. Finally, EEI expresses appreciation to all who have taken the time from their busy schedules to come to this workshop. We look forward to working with you today, tomorrow, throughout the preparation of the study, and afterwards.
- Thank you.